

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) ADMINISTRATION

PREAMBLE

1. **Sections Affected**

R9-22-307	Amend
R9-22-313	Amend
R9-22-318	Amend
R9-22-344	New Section
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 36-2903.01(H)

Implementing statutes: A.R.S. §§ 11-297 and 36-2905
3. **The effective date of the rules:**

October 8, 1996
4. **A list of all previous notices published in the Register addressing the exempt rule:**

None published.
5. **The name and address of agency personnel with whom persons may communicate regarding rulemaking:**

Name:	Cheri Tomlinson
Address:	AHCCCS Administration Office of Policy Analysis and Coordination 801 East Jefferson, Mail Drop 4200 Phoenix, Arizona 85034
Telephone:	(602) 417-4198
Facsimile:	(602) 256-6756
6. **An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**

This Legislation was enacted to reduce expenditures in the state's 100% funded MIMN program and to maximize the available Medicare benefits.

These rule amendments prohibit individuals who are Medicare eligible from becoming eligible or being redetermined eligible for the MIMN program in those counties which have a Medicare HMO except: 1) individuals or members who have received a transplant and must take immunosuppressant drugs; 2) individuals who are ineligible to enroll in a Medicare HMO due to a pre-existing medical condition (currently end stage renal disease or receipt of Medicare certified hospice).

These rule amendments will implement the above MIMN changes. Other changes will update and make the rules more concise, understandable, and consistent with current State law. Laws 1996, Ch. 5, § 6, grants the Administration an exemption from the regular rulemaking procedures.
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.
8. **The summary of the economic, small business and consumer impact:**

Not applicable.

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9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):
Not applicable.
10. A summary of the principal comments and the agency response to them:
Not applicable.
11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable
12. Incorporations by reference and their location in the rules:
Not applicable.
13. Was the rule previously adopted as an emergency rule?
No.
14. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
ADMINISTRATION**

ARTICLE 3. ELIGIBILITY AND ENROLLMENT

Section

- R9-22-307. AHCCCS Family Household and Relationship for Indigent and Medically Needy Persons and Eligible Low-income Children
- R9-22-313. Determination of Eligibility for Indigent and Medically Needy Persons, Eligible Low-income Children, and State Emergency Services Persons
- R9-22-318. Reasons for Denial or Discontinuance of Eligibility for the Indigent and Medically Needy and Eligible Low-income Children
- R9-22-344. Eligibility for Medicare Beneficiaries

ARTICLE 3. ELIGIBILITY AND ENROLLMENT

R9-22-307. AHCCCS Family Household and Relationship for Indigent and Medically Needy Persons and Eligible Low-income Children

- A. For the purposes of AHCCCS eligibility, the persons listed in subsection (B) shall be included on 1 AHCCCS application and shall be considered 1 family household. Except as indicated in subsections (D), (E), and (F), persons included in the family household shall reside in 1 common residence. The head of household shall identify all persons sharing the common residence. The eligibility worker shall record this information in the case record and shall then establish the AHCCCS family household in accordance with this Section.
1. Except as provided by A.R.S. §§ 11-297, 36-2905, or 36-2905.03, categorically eligible persons shall not be considered part of the indigent, medically needy, eligible low-income children, or state emergency services family household, unless such persons are applicants for eligibility as indigent or medically needy persons, as eligible low-income children, or as state emergency services persons.
 2. AHCCCS-disqualified spouses, AHCCCS-disqualified dependents, and disqualified household members, and Medicare beneficiaries described in R9-22-344 shall be considered part of the indigent, medically needy, eligible low-income children, or state emergency services household.
 3. Household members who do not meet the citizenship-alien status requirements for eligibility as indigent or medically needy persons or eligible low-income children

shall be considered part of the indigent, medically needy, or eligible low-income children household.

4. When categorically eligible persons and disqualified persons are considered part of the indigent, medically needy, or eligible low-income children household, such persons shall not be certified eligible as indigent or medically needy or as eligible low-income children under these provisions.
5. When Medicare beneficiaries described in R9-22-344 are considered part of the indigent, medically needy, eligible low-income or state emergency services household, such persons shall not be certified eligible as indigent or medically needy under these provisions.
- B. No change.
- C. No change.
- D. No change.
- E. No change.
- F. No change.
- G. No change.
- H. No change.
- I. No change.
- J. No change.
- K. The following persons are not eligible for AHCCCS under this Article:
 1. Persons who are inmates of a public institution;
 2. Inmates of a public mental hospital;
 3. Recipients of Title XIX (Medicaid) coverage through the state of Arizona or some other state or territory;
 4. Minors whose applications were not filed in accordance with subsection (F);
 5. Persons who do not meet the criteria of an AHCCCS family household as defined in subsection (A);
 6. Deceased persons, except as defined in subsection (K);
 7. AHCCCS-disqualified household members;
 8. AHCCCS-disqualified spouses;
 9. Disqualified household members;
 10. Except as provided under R9-22-343, persons who are not citizens of the United States and who do not meet the alienage requirements pursuant to 42 CFR 435.406(a), March 14, 1991, incorporated by reference herein and on file with the Office of the Secretary of State.
 11. Medicare beneficiaries described in R9-22-344.

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R9-22-313. Determination of Eligibility for Indigent and Medically Needy Persons, Eligible Low-income Children, and State Emergency Services Persons

- A. No change.
- B. No change.
- C. No change.
- D. The certification period for indigent or medically needy persons or eligible low-income children who were hospitalized at the time of application or at any time after the date of application and who are potentially eligible for Title XIX categories other than S.O.B.R.A. categories shall begin on the date of the eligibility determination and shall continue through the last day of the second month after that date. Except as provided in R9-22-340 and R9-22-344, the certification period for all other indigent or medically needy persons or eligible low-income children shall begin on the date of the eligibility determination and shall continue through the last day of the sixth month after that date, unless the county eligibility worker has verified that ineligibility may occur prior to the end of a 6-month certification period. If a person has been certified as an indigent or medically needy person or eligible low-income child for a 2-month period because the person is hospitalized and potentially eligible for Title XIX coverage other than S.O.B.R.A. coverage and the person has not refused to cooperate with the Title XIX eligibility process, and if DES has denied Title XIX eligibility for the person or has not completed the determination of the person's eligibility by the end of the 2-month certification period, the county may extend the person's eligibility until the last day of the 6th full month after the date of determination.
- E. No change.
- F. No change.
- G. No change.
- H. No change.
- I. No change.
- J. No change.
- K. No change.
- L. No change.

R9-22-318. Reasons for Denial or Discontinuance of Eligibility for the Indigent and Medically Needy and Eligible Low-income Children

- A. The county eligibility worker shall initiate either a denial or discontinuance as specified in R9-22-801 under any of the following circumstances.
 - 1. Countable income exceeds the limits prescribed by A.R.S. §§ 11-297, 36-2905, and 36-2905.03.
 - 2. Countable liquid resources exceed the \$5,000 limit prescribed by A.R.S. §§ 11-297, 36-2905, and 36-2905.03.
 - 3. Countable total resources exceed the \$50,000 limit prescribed by A.R.S. §§ 11-297, 36-2905, and 36-2905.03.
 - 4. The person is not a resident of Arizona as defined by A.R.S. § 36-2903.01 and R9-22-301. For discontinuance of persons, the advance notice requirement is waived if loss of state residency has been verified.
 - 5. The person is not an AHCCCS household member prescribed by R9-22-307.
 - 6. The person is a recipient of Title XIX in Arizona or in another state or territory. For discontinuance of a person, the advance notice requirement is waived if Title XIX status has been verified.
 - 7. The person is an inmate of a public institution. For discontinuance of a person, the advance notice requirement is waived if the inmate status has been verified.
 - 8. The person is an inmate of a public mental hospital. For discontinuance of a person, the advance notice requirement is waived.

- 9. Pursuant to R9-22-307(E), the person is a minor who is not emancipated, whose application was not filed by a qualified person.
- 10. Pursuant to R9-22-307(J), the person or head of household is deceased. For discontinuance of persons, the advance notice requirement is waived if the death has been verified.
- 11. Pursuant to R9-22-101(5), the person is an AHCCCS-disqualified spouse.
- 12. Pursuant to R9-22-101(4), the person is an AHCCCS-disqualified spouse or an AHCCCS-disqualified dependent.
- 13. Pursuant to R9-22-101, the person is a disqualified household person.
- 14. The person failed within the time frames specified in R9-22-313(C) and (D) or R9-22-330(A) to provide information or verification which is required to make an eligibility decision if the required information or verification has been requested in writing by the county and the head of household has been given a minimum of 10 days from the date of such written request to provide the information or verification.
- 15. Pursuant to R9-22-311 and R9-22-327, the person refused to cooperate in providing information or verification which is needed to make an eligibility decision.
- 16. The application forms have not been signed by the head of household or a qualified designated representative.
- 17. The head of household, spouse or designated representative has failed to participate in or cooperate with the face-to-face interview process, pursuant to R9-22-310(A).
- 18. The head of household, designated representative or other person acting on behalf of the AHCCCS family household requests a withdrawal. For recipients, if the withdrawal is made in writing, the advance notice requirement is waived.
- 19. The person's whereabouts are unknown.
- 20. The household has failed or refused to cooperate with the Administration's eligibility quality control review or analysis.
- 21. Pursuant to R9-22-311, the household refused to assign health or accident benefits to the Administration.
- 22. Effective with applications initiated after June 30, 1993, pursuant to R9-22-302, the person is not either a citizen of the United States or an alien who meets the requirements of 42 CFR 435.406(a), March 14, 1991, incorporated by reference and on file with the Office of the Secretary of State.
- 23. Effective July 1, 1996, persons who are ineligible for coverage pursuant to R9-22-344.
- B. No change.
- C. No change.

R9-22-344. Eligibility for Medicare Beneficiaries

- A. Eligibility Criteria: Effective July 1, 1996, persons who either receive or may receive Medicare Part A benefits during the indigent or medically needy certification period shall have eligibility determined according to the following process, when applying for coverage as an indigent or medically needy person pursuant to A.R.S. §§ 11-297 and 36-2905:
 - 1. Persons who are enrolled in a Medicare HMO and apply or reapply for eligibility shall not be approved for coverage as an indigent or medically needy person.
 - 2. Persons who have Medicare Part A and B benefits and who are not enrolled in a Medicare HMO, but who are eligible to be enrolled in a Medicare HMO in their county of residence, shall be certified as indigent or medically needy for a period of time that is no longer than the month of certification, plus 2 additional calendar months.

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3. Persons who are eligible for Medicare Part A benefits, but who are not receiving Medicare Part B benefits, shall be advised to apply for Medicare Part B Medicare benefits during the first general Medicare enrollment period as specified in 42 CFR 406 and 407. Individuals shall not be approved for coverage as an indigent or medically needy person after the date that Medicare Part B benefits are available, or would have been available, if the person had applied for Medicare Part B benefits during the Medicare general enrollment period.
 4. Persons who become eligible for Medicare Part A and Medicare Part B benefits during the indigent or medically needy certification period, including persons who have been disabled for 24 months, and who are entitled to enroll in Medicare as specified in 42 CFR 406.12, shall be advised to apply for those benefits during the initial Medicare enrollment period as specified in 42 CFR 406 and 407. Individuals shall not be approved for coverage as an indigent or medically needy person after the Medicare Part A and Part B benefits are effective, or would have been effective if the person had applied for Medicare Part B benefits during the initial enrollment period, allowing a minimum of 2 months from the last day of the initial enrollment period to provide an opportunity to enroll in a Medicare HMO.
 5. Exception: This Section does not apply to the following individuals if all other eligibility requirements for A.R.S. §§ 11-297 or 36-2905 are met:
 - a. Persons who have had an organ transplant requiring immunosuppressant prescription drugs; or
 - b. Persons who are prohibited from enrolling in a Medicare HMO due to pre-existing medical conditions or receipt of Medicare hospice services; or
 - c. Persons who reside in a county that does not have a Medicare HMO operating in that county, unless the person is enrolled with a Medicare HMO based outside the county of residence.
- B. Undue Hardship**
1. Individuals may apply to the Administration for an undue hardship reimbursement of Medicare Part B premiums paid by the individual to the Social Security Administration if all of the following criteria are met:
 - a. The individual has been determined ineligible for benefits pursuant to A.R.S. §§ 11-297 or 36-2905 due solely to the Medicare restrictions prescribed in this Section;
 - b. The individual received Medicare Part A benefits as specified in 42 CFR 406 and 407 prior to July 1, 1996;
 - c. The individual did not have Medicare Part B coverage as of July 1, 1996;
 - d. The individual has applied and has been determined ineligible for the Qualified Medicare Beneficiary and Specified Low Income Medicare Beneficiary (Quasi-qualified Medicare beneficiary) program, as defined in A.R.S. § 36-2970 et. seq. due solely to excess income; and
 - e. The individual has applied to the Social Security Administration for Medicare Part B benefits.
 2. The Administration shall establish a process to reimburse the Medicare Part B premiums directly to the individual who receives approval for an undue hardship according to this Section.
 3. Once every 6 months, the Administration shall review the status of each individual who has been granted an undue hardship according to this Section and may approve additional 6-month extensions of the undue hardship provided that the individual continues to meet all criteria established in this Section.
- C. Voluntary Discontinuance of Medicare Part B Benefits.** An individual who has Medicare Part B benefits and who is ineligible for indigent or medically needy benefits pursuant to this Section, shall not be determined eligible for indigent or medically needy benefits at a later date if the individual voluntarily discontinues Part B Medicare benefits.
- D. AHCCCS Payment of Medicare HMO Monthly Premiums**
1. The Administration may pay the Medicare Health Maintenance Organizations (HMO) premiums for individuals who are ineligible for indigent or medically needy benefits as specified in this Section, when all Medicare HMOs operating in the individual's county of residence charge a monthly premium. The Administration will pay the premium only if all of the following criteria are met:
 - a. The individual is receiving Medicare Parts A and B as specified in 42 CFR 406 and 407.
 - b. The individual has been determined ineligible for benefits pursuant to A.R.S. §§ 11-297 or 36-2905 due solely to the Medicare restrictions prescribed in this Section.
 - c. The individual is ineligible for the Qualified Medicare Beneficiary and Specified Low Income Medicare Beneficiary (Quasi-qualified Medicare beneficiary) program as defined in A.R.S. § 36-2970 et. seq. due solely to excess income.
 2. The Administration will pay no more than the lowest Medicare HMO monthly premium available when there is more than 1 Medicare HMO in the individual's county of residence.
 3. The Administration shall not pay the monthly Medicare HMO premium when coverage from a premium-free Medicare HMO becomes available in the individual's county of residence.
 4. Once every 6 months, the individual shall apply to the Administration for a redetermination of eligibility according to this Section.